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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

                Respondent/Plaintiff,

    v.

CARLOS JAVIER LOPEZ,

                Petitioner/Defendant.

Case No. 2:04-cr-375-APG-GWF

ORDER REOPENING MOTION

(ECF No. 162)

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        Defendant Carlos Lopez filed a second motion to vacate under § 2255. ECF No. 162. This second motion was stayed as a "second or successive" motion so that Lopez could seek permission to file it from the Court of Appeals for the Ninth Circuit. ECF No. 163. After several months without any updates from Lopez, I ordered him to inform the court of the status of his appeal. ECF No. 168. Lopez did so, relating the reasons that he has been delayed in filing his motion with the Court of Appeals, and requesting additional time to complete his motion there. Finding good cause, I gave Lopez one more chance to complete his filing at the Court of Appeals and ordered that he file a response by September 5, 2017, informing the court of the status of his appeal, including the date he filed papers with the Ninth Circuit seeking permission for his second or successive petition. ECF No. 171. I advised Lopez that failure to timely file a response to this order will result in denial of the motion. Lopez did not file a response, so I denied his § 2255 motion. ECF No. 172.

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        Lopez moves to reopen the proceedings, stating that he provided a response by the date indicated. ECF No. 173. The court's docket does not reflect Lopez's response. However, a search of the Ninth Circuit's docket shows Lopez filed an application for leave to file a second or successive § 2255 petition with the Ninth Circuit on August 18, 2017. *Lopez v. United States*, Case No. 17-72355, ECF No. 1.

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IT IS THEREFORE ORDERED that Carlos Javier Lopez's motion to reopen the

2   proceedings **(ECF No. 173) is GRANTED**.

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IT IS FURTHER ORDERED that this action is STAYED pending a ruling from the Ninth

4   Circuit on Lopez's application to file a second or successive petition.

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DATED this 5th day of January, 2018.

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7   _____
ANDREW P. GORDON
8   UNITED STATES DISTRICT JUDGE

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